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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/065,144	09/20/2002	Frank F. Chang	56.0630	2763
27452	7590	11/02/2004	EXAMINER	
SCHLUMBERGER TECHNOLOGY CORPORATION IP DEPT., WELL STIMULATION 110 SCHLUMBERGER DRIVE, MD1 SUGAR LAND, TX 77478			TUCKER, PHILIP C	
			ART UNIT	PAPER NUMBER
			1712	

DATE MAILED: 11/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/065,144	CHANG ET AL.	
	Examiner Philip C Tucker	Art Unit 1712	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 09 August 2004.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-4 and 6-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 15 is/are allowed.
- 6) Claim(s) 1,4,6-8 and 10-14 is/are rejected.
- 7) Claim(s) 2,3 and 9 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 6-8, 10, 11, 13 and 14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 6 is dependent upon cancelled claim 5, and is thus indefinite. The dependent claims fall herewith.

In claim 14, there is no number to indicate the volume percent of methanol in line

4. In the previously allowed claim, it was indicated as a 1 volume percent.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1, 4, 6 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dahayanake (6258859).

Dahayanake teaches a composition for treating subterranean formations which comprises a surfactant such as an alkylamidopropyl betaine and an acid (see abstract),

wherein the surfactant is included in similar amounts (column 6, lines 22-30). The acid is present in amounts up to "about 10%", which is inclusive of greater than 10%.

Dahayanake teaches that the alkyl group may be erucyl (column 4, lines 1-6). Lower molecular weight alcohols, such as Isopropyl alcohol may be included in the fluid (column 8, lines 8-12). It would be obvious to one of ordinary skill in the art to utilize low molecular weight alcohols such as methanol or ethanol, since homologues of isopropyl alcohol with such similar structures would be expected to have similar utility.

Dahayanake differs from the present invention in that a specific example of the use of erucylamidopropyl betaine is not disclosed. It would however be obvious to one of ordinary skill in the art to utilize erucylamidopropyl betaine in the invention of Dahayanake, given the teaching of Dahayanake that that alkylamidopropyl betaines, including the erucyl type, are useful in forming a composition for treating subterranean formations.

2. Claims 2, 3, 9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

3. Claims 15 is allowable over the art of record.

4. Applicants amendment and arguments have been considered but are not deemed fully persuasive. Applicant's amendment has distinguished over Chang which teaches the use of a cosurfactant. Applicant's arguments with respect to Dahayanake are not deemed persuasive. The teaching of "about 10%" clearly encompasses the "greater than 10%" of the current claims (In re DeVaney 88 USPQ 97, In re Ayers 69 USPQ 109). Upon further consideration, the utility of the term "lower molecular weight alcohol", along with specifically teaching isopropanol is seen to render the utility of ethanol and methanol obvious to one of ordinary skill in the art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip C Tucker whose telephone number is 571-272-1095. The examiner can normally be reached on Monday - Friday, Flexible schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Randy Gulakowski can be reached on 571-272-1302. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Philip C Tucker
Primary Examiner
Art Unit 1712

PCT-3151